

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency

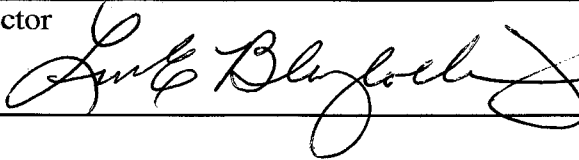
Little Rock, Arkansas 72201

**AR Notice FI-94**

**For:** All STO Employees

**Submitting Subpoenas to the State Office**

**Approved by:** State Executive Director



**1 Overview**

**A Background**

For the last several years, employees of the United States Department of Agriculture have been subpoenaed to testify in cases where the USDA was not a party. This has been costly, disruptive, and seriously compromised the ability of those employees to perform their duties. The **Touhy Regulations** were an attempt to minimize this problem.

**B Purpose**

The purpose of this notice is to:

- provide County Offices with a copy of the Office of General Counsel (OGC) prepared memorandum concerning the law of governing subpoenas commanding the appearance of USDA employees in cases where the United States is not a party.
- provide County Offices with instructions on submitting subpoenas to the State Office.
- provide a copy of the "Arkansas FSA Employee Subpoena Information" form and form instructions.

**2 Information**

It is not uncommon for an attorney to request permission for USDA employees to appear in judicial proceedings in which the United States is not a party. It is also not uncommon for an attorney to issue a subpoena which compels the appearance of the employee. In the vast majority of cases, OGC will send the standard "Touhy" Letter and request that the issuing attorney withdraw the subpoena.

In cases where the subpoena is withdrawn, it will then be considered a request for information under Departmental Regulations pertaining to the Freedom of Information Act (FOIA) and will be processed accordingly. In cases where the United States is a party, employees will be notified by memo to proceed.

**Disposal Date**

September 1, 2005

09-24-04

**Distribution**

FSA Offices

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### 2 **Information Continued...**

Subpoenas are time sensitive material. It is imperative that they be timely submitted. Employees are reminded that they can be sanctioned for acting in any fashion contrary to the Touhy Regulations

### 3 **Action**

Employees shall:

- Immediately upon receipt of a subpoena, complete an “Arkansas FSA Employee Subpoena Information” Form.
- Fax, as soon as possible, a copy of the Subpoena and a completed “Arkansas FSA Employee Subpoena Information” Form. Fax this information to the Attention of Rhonda O’Guinn at 501-301-3086.
- Send an E-mail ([rhonda.oguinn@ar.usda.gov](mailto:rhonda.oguinn@ar.usda.gov) ) to notify the State Office that the information has been faxed. This will serve as a check system (example: out of office situations, fax transmission not received, fax problems, etc....).
- Reproduce, locally, the “Arkansas FSA Employee Subpoena Information” Form as needed.
- Refer to the attachments for additional information on the **Touhy Regulations**.

### 4 **Contact**

Contact Rhonda O’Guinn ([rhonda.oguinn@ar.usda.gov](mailto:rhonda.oguinn@ar.usda.gov) or 501-301-3018) concerning Subpoenas and contact Karen Petrus ([karen.petrus@ar.usda.gov](mailto:karen.petrus@ar.usda.gov) or 501-301-3017) concerning FOIA’s.